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MAR 16 2005

**OFFICE OF PETITIONS**

In re Application of :  
Vincent J. Macri :  
Application No. 10/603,331 :  
Filed: June 26, 2003 :  
Attorney Docket No. None :

**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005, to revive the above-identified application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item 1. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. Accordingly, the application cannot be revived until the issue fee is paid.

It is noted that petitioner submitted the \$300 publication fee and a partial issue fee payment of \$332 on September 28, 2004. On January 21, 2005 petitioner submitted another partial issue fee payment of \$332. However, effective December 8, 2004, the issue fee for a small entity was increased to \$700. Since the balance of the issue fee is being paid after December 8, 2004, applicant must pay the new amount of \$700. The issue fee submitted to date is deficient by \$36.

Accordingly, the petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include the issue fee deficiency and a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

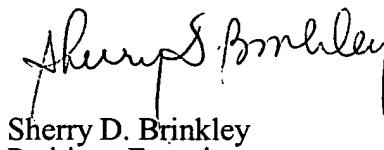
Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is **(703) 872-9306**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.



Sherry D. Brinkley  
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Office of the Deputy Commissioner  
for Patent Examination Policy